

Exhibit D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LOCAL 2507, UNIFORMED EMTs, PARAMEDICS & FIRE INSPECTORS, Individually and on behalf of its current and former members; LOCAL 3621, EMS OFFICERS UNION, Individually and on behalf of its current and former members; NYC EMS SUPERIOR OFFICERS ASSOCIATION, Individually and on behalf of its current and former members; TONYA BOYD, CHRISTELL CADET, MARK CARRASQUILLO, LIZETTE CLARO, BEVERLY COBB, ALI COUTARD, SENCIA DATILUS, LAITRICE EDWARDS, ALICIA ELKADI, RONALD FLOYD, KAHLIA GRAHAM, RICHARD GUZMAN, MAGGIE HOPE, JASMIN HOWARD, ANGELA JONES, RAVIVARMAN KAILAYANATHAN, MELANIE MORENO-KETCHUM, JENELLE PIERRE, SIMONE QUASHIE, JASON SAFFON, ALLISON SHAUGHNESSY, LAURA TORRES, ANDRE VALDEZ, LANCE WINFIELD, RONALD WOLFE, MARYLOU AURRICHIO on behalf of themselves and all other similarly-situated individuals,

Case No. 22-cv-10336 (AT) (GWG)
[rel. 20-cv-3389]

Plaintiffs,
-against-

CITY OF NEW YORK on behalf of the Fire Department of the City of New York,

Defendant.
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PLAINTIFFS' NOTICE OF DEPOSITION PURSUANT TO FRCP 30(b)(6)

TO: Lora Minicucci
Zachary Ellis
New York City Law Department
Attorneys for Defendant
100 Church Street
New York, New York 10007

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiffs, represented by The Kurland Group, the undersigned attorneys, with offices at 85 Broad Street, 18th Floor, New York, New York, 10004, will take the following deposition before an

officer qualified to administer oaths, to be recorded by a stenographer and by audiovisual recording, on an agreed-upon date and in the manner directed by Plaintiffs. The deposition shall continue from day to day, or upon such adjourned dates as may be agreed upon, until completed.

A representative of DEFENDANT with knowledge regarding Plaintiffs' claims and Defendants' defenses, including but not limited to knowledge regarding:

1. The FDNY's recruitment process for new recruits for Fire and EMS as outlined in the Declaration of Arlene Simmons attached here as **Exhibit A**.
2. The merger of EMS into the FDNY including the details precipitating and leading up to the merger, the details of the merger itself and the details of how it impacted EMS First Responders, including how it impacted EMS First Responders' job duties and working conditions, including the details outlined in the documents related to the merger Bates stamped LOCAL 2507_001385-96, LOCAL_001397-436, LOCAL 2507_02461-2, and LOCAL 2507_02463-526.
3. Details regarding "Hard-to-Recruit" Titles pursuant to Section 12-121 of the NYS Administrative Code including what is required to qualify for the designation and the process of becoming placed on the list. *See* Bates stamp LOCAL 2507_001437-43.
4. Process including criteria and details regarding an FDNY First Responder being honored and/or recognized in FDNY Medal Day including various awards, Service Ratings, Pre-Hospital Save Awards, Unit of the Month and Unit Citations.
5. The bases for, creation and implementation of the promotional process which allows EMS First Responders to promote to the position of firefighter including the steps taken to establish the process, the details precipitating the process, any approvals, or requirements or applications necessary to do so.
6. Job duties and oversight and supervision of employees assigned to administrative positions in operations in the following units;
BHS, Ceremonial, Deputy Commissioner Secretarial, Document Control, Family Assistance, FC Liaison, FDOC, OLR, Operations Secretarial Staff, Chief Aids, Photo Unit, RCC Unit, Recruitment, and Special Events.
7. Job Analyses completed Fire and EMS First Responders, including the Job Analysis for which the portion entitled "Validation Study" dated September 21, 2012 that is referenced in the August 4, 2023 report of Dr. Campion.
8. The EMS and Fire matrixes for 911 emergency dispatch. *See* Bates stamp LOCAL 2507_02440-1 and LOCAL 2507_02442-60.
9. The implementation of NYC Administrative Code 12-307 as it relates to EMS and Fire First Responders.
10. The requirements to allow a title to be promotable to another title, including requirements for congruity and any other requirements under New York City policies, practices, rules, codes or guidelines as well as New York City and New York State law.
11. The obligations of Defendant, as well as the steps taken by Defendant to ensure pay practices in the FDNY do not adversely impact EMS First Responders including Defendant's use of workforce analytics to assess workplace fairness and discriminatory impact of its employment practices, compliance with obligations to ensure non-discrimination under the New York City Charter, the rules and regulations of DCAS, court

orders, Local Law 18 of 2019, New York City Administrative Code, Personnel Rules and Regulations and state and federal regulations.

12. The pattern bargaining process Defendant engages in, the basis for using two patterns, uniform and civilian, what precipitated the use of pattern bargaining and these specific patterns, the process Defendant engages in to select who is part of each pattern and when and what type of bargaining (pattern or otherwise) was used for the period from 1996 to present.
13. How incidents of workplace violence is maintained on FDNY First Responders, the purpose of maintaining this information, and any reports generated regarding this in Defendant's normal course of business.
14. How incidents of injury and illness are maintained on FDNY First Responders, the purpose of maintaining this information, and any reports generated regarding this in Defendant's normal course of business.
15. The Report of the Finance Division of the Fiscal 2021 Preliminary Plan and the Fiscal 2020 Preliminary Mayor's Management Report for the Fire Department of New York dated March 3, 2020 including the FDNY's response and any steps taken to address the issues raised therein.
16. Any steps Defendant took in response to the findings in the New York City Counsel resolution 1062-2019A.
17. Any steps Defendant took in response to the EEOC determination dated December 22, 2021 [ECF No. 16-2].
18. The creation and content of the excel spreadsheet Dr. Campion referenced in his August 4, 2023 report entitled "EMT & Paramedic Rates – EMS vs LVHH 05-16-17.xlsx."
19. The creation and content of the spreadsheets Dr. Campion referenced in his August 4, 2023 listed as footnotes 44 through 48.

PLEASE TAKE FURTHER NOTICE that deponents are required to bring with them to the depositions the records within their possession, custody or control which they will rely upon during the deposition, including but not limited to the following:

1. Documents exchanged between or among the parties hereto or their agents, including but not limited to any communications deponent has had regarding the topics outlined above;
2. Documents upon which Defendant relies, or will rely, concerning all of Defendant's claims, arguments, and/or affirmative defenses in this matter;
3. Documents created by, or on behalf of, Defendant and/or in Defendant's possession that evaluate, assess, critique or review the compensation, benefits, terms and conditions of the employment of FDNY First Responders
4. Documents that support Plaintiffs' claims; and
5. Documents that support Defendant's defenses.

□ “DOCUMENT” or “DOCUMENTS” or “RECORD” or “RECORDS” shall mean the original and all drafts of all written or graphic matter, however produced or reproduced, of any kind or drafts of all written or graphic matter, however produced or reproduced, of any kind or description, whether or not sent or received, and all copies thereof that are different in any way from the original (whether by interlineation, receipt stamp, notation, indication of copies sent or received, or otherwise), including, without limitation, any paper, book, booklet, periodical, written description, account, photograph, blue print, drawing, sketch, schematic, agreement, contract, memorandum, press release, circulat, advertising material correspondence, letter, telegram, telex, object, report, opinion, investigation, record, transcription, study, note, notation, memo book entry, journal entry, diary entry, Day-timer entry, text message, instant message (“IM”), posting, notes, or messages on social networking sites (Facebook, Instagram, Twitter, LinkedIn, etc.), Filo-fax entry, calendar entry, board minutes, board resolution, working paper, summary, intraoffice communication, diary, chart, index sheet, computer software, computer diskette, check, check stub, delivery ticket, bill of lading, invoice, telephone message pad, telephone message form books, records, recording, or summary of any telephone or other conversations, of any interview, of any conference, meeting, or hearing, or of any written, recorded, transcribed, taped, videotaped, filmed, or graphic matter or of any other data compilation from which information can be obtained, translated, transmitted or transcribed, of which Defendants’ attorneys or agents have or have had possession, custody, or control, or of which Defendants’ attorneys or agents have any knowledge.

Dated: December 11, 2024
New York, New York

Respectfully submitted,

~ / / S / / ~
Yetta G. Kurland
THE KURLAND GROUP
Attorneys for Plaintiffs
85 Broad Street, 28th Floor
New York, New York 10004

Exhibit A

UNITED STATES
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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FDNY LOCAL 2507, UNIFORMED EMTs,
PARAMEDICS & FIRE INSPECTORS, DC-37,
AFSCME, AFL-CIO, Individually and on behalf of its
current and former members, JANE and JOHN DOE #1 -
4000, and similarly-situated individuals, FDNY LOCAL
3621, EMS OFFICERS UNTION, DC-37, AFSCME,
AFL-CIO, Individually and on behalf of its current and
former members, JANE and JOHN DOE #4001-4750 and
similarly-situated individuals, and NYC EMS SUPERIOR
OFFICERS ASSOCIATION, Individually and on behalf of
its current and former members, JANE and JOHN DOE
#4751-4800,

**AFFIDAVIT OF
ARLENE SIMMONS**

EEOC Charges:
520-2020-01722
520-2020-01723
520-2020-01724
520-2020-01725
520-2020-01726
520-2020-01727

Claimants,

-against-

City of New York and New York City Fire Department,

Respondents.

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STATE OF NEW YORK)
)
) ss:
COUNTY OF NEW YORK)

I, **ARLENE SIMMONS**, being duly sworn, depose and say under the penalties of perjury:

1. I am currently serving as a Captain in the New York City Fire Department (“FDNY”).
2. For the period of July of 2016 to August of 2018 I worked in the Office of Recruitment and Retention.
3. I submit this affidavit to provide information regarding the recruitment process in the FDNY.
4. The recruitment process for the FDNY is the same for Fire side and EMS. In fact, it happens at the same time with the same staff.

5. The FDNY recruits potential applicants regardless of whether those potential applicants ultimately work on the EMS or Fire side of the Department.
6. Our recruitment efforts include tabling that targets communities of color at locations like schools, malls, DMV offices, fairs and expos.
7. These tables are staffed by our office and provide literature to potential applicants on joining the FDNY inclusive of both EMS and Fire. We take great care to make sure that there is diverse representation of race and gender in the FDNY staff at these tables.
8. We also give presentations to talk about a career in the FDNY. In these presentations we again discuss and encourage individuals to apply to enter the FDNY irrespective of EMS or Fire.
9. These tabling and speaking engagements specifically target people of color and women.
10. One of the primary duties in these recruitment efforts is to get as many people as possible to fill out Expressions Of Interest (“EOI”s). These are forms people fill out to express an interest in applying to the Department either for the EMS side or the Fire side. We are specifically instructed to have people (who are mostly people of color and women) fill out EOIs for *both* EMS and Fire. The Department puts significant pressure on getting as many EOI forms filled out as possible.
11. This is because the Department than uses this to provide statistical proof, given historic problems with discrimination in the Department, that the Department is taking steps to encourage diversification in the Department.
12. However, rather than resolve the issue of discrimination, and specifically the segregation of EMS which is predominately of color and Fire which is almost exclusively white and male, because these applicants have filled out an EOI for both EMS and Fire, women and

people of color ultimately end up on the EMS side of the Department while the Fire side continues in its practice of hiring almost exclusively white and male applicants. Yet the Department can claim they are doing their best to correct this segregated work force because they show the statistics of how many non-white and female individuals responded to the Department's "recruitment efforts" to become firefighters to make it look like the Department is trying their best to diversify. They do not explain that these individuals are told to fill out EOIs for both EMS and Fire or that ultimately almost all women and people of color who apply for FDNY end up on the EMS side.

13. After both EOIs are filled out, non-white and female applicants are encouraged to apply for EMS because they are told that there is not as long a waiting list on the test, and that it is easier to get in.

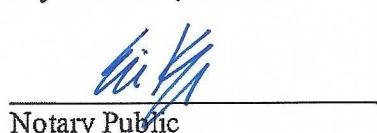
14. In other words, a process that is supposed to track and support recruitment to diversify the FDNY by bringing in more diversity into the almost exclusively white and male side of the department (Fire) has the actual effect of funneling women and people of color into the EMS side so that the Department continues to be segregated with almost exclusively white men being let into the Fire side and almost all women and non-white applicants being matriculated into the EMS side.

Dated: March 17, 2021
New York, New York



Afleene Simmons

Sworn to before me this 17th
day of March, 2021



Notary Public

